

File
Canada agents
4/15/86

MASTER DATA EXCHANGE ARRANGEMENT FOR THE
MUTUAL DEVELOPMENT OF WEAPONS SYSTEMS

1. SCOPE

Based on the spirit of defense cooperation which characterizes the relations between Canada and the United States of America (US) that have been recognized in the 1940 Ogdensburg Declaration, and consistent with their respective laws and policies, including the NATO Agreement on the Communication of Technical Information for Defence Purposes, the United States of America Department of Defense (DoD) and the Canadian Department of National Defence (DND), hereafter known as the Participants, may exchange information with each other, on the basis of the provisions of this Arrangement, on all aspects of each data exchange project described in present or future annexes established under this Arrangement.

2. DATA EXCHANGE ANNEXES

Each data exchange project as agreed upon by the Participants shall be described in an annex to this Arrangement.

3. ESTABLISHMENTS AND AUTHORITIES CONCERNED

Each project that is approved will indicate the organizations and authorities that will have authority to implement same, without prejudice to the modifications which may later be established by mutual agreement of the Project Officers. Project Officers will be designated, in each Data Exchange Annex, respectively by each Participant for each project, and will be responsible for the project.

The contact points for this Arrangement are:

a. For DND:

Director General International Programs
Department of National Defence
National Defence Headquarters
101 Colonel By Drive
Ottawa, Ontario
K1A 0K2

b. For DoD:

Deputy Under Secretary of Defense (International
Programs and Technology)
The Pentagon
Room 3E1082
Washington, D.C. 20301

4. CHANNELS OF COMMUNICATION, VISITS AND REQUESTS FOR
INFORMATION

- a. In the implementation of each data exchange project, authorities of DoD and DND involved in these projects are authorized to communicate and to exchange information relating to that project. Correspondence and documents shall be forwarded by the Project Officer initiating the correspondence for transmittal, the other Participant's resident Defense Attache, to the Project Officer of the other Participant for necessary distribution.
- b. Visits of personnel of one Participant to organizations of the other shall be made only by the authorities listed in the annex relating to a specific project. For each such project, requests for visits of personnel of one Participant to listed organizations of the other Participant shall first be submitted for approval to the Project Officer of the Participant to be visited. After approval has been received from the Project Officer of the Participant to be visited, a formal visit request forwarding the requisite certificate of security clearance for the personnel making the visit shall be transmitted to the Participant.
- (1) In the case of a visit to the United States, through the Defence Attache of the Canadian Embassy in Washington, D.C., or
- (2) In the case of a visit to Canada, through the Defense Attache of the United States Embassy in Ottawa.
- c. Requests for information on any data exchange project shall be transmitted through the channels prescribed for correspondence in subparagraph a. above.

5. SECURITY MEASURES AND ASSURANCES

For each data exchange project the following will be applied:

Each Participant commits itself to afford classified information and other information provided in confidence substantially the same degree of protection afforded it by the originating Participant. Classified information may be disclosed to a third party only with the prior written consent of the originating Participant. The same protection shall be afforded to information originated by one Participant but received indirectly by the other Participant through a third party.

- b. Classified information exchanged under this Arrangement will be handled, protected and transmitted in a manner no less stringent than that provided under the United States/Canada Security Agreement of 30 January, 1962 and the US/Canada Industrial Security Agreement of 31 March 1952.
- c. The recipient Participant will investigate all cases in which it is known or there are grounds for suspecting that classified information from the originating Participant has been lost or disclosed to unauthorized persons. The recipient Participant shall also promptly and fully inform the originating Participant of the details of any such occurrences, and of the final results of the investigation and corrective action taken to preclude recurrences.
- d. Each Participant will permit security experts of the other Participant to make periodic visits to its territory, when it is mutually convenient, to discuss with its security authorities its procedures and facilities for the protection of classified information furnished to it by the other Participant. Each Participant will assist such experts in determining whether such information provided to it by the other Participant is being adequately protected.

6. INTELLECTUAL PROPERTY PROVISIONS

a. Intellectual Property (IP):

IP includes inventions, patented or not, trademarks, industrial designs, copyrights and technical

information including software, data, designs, diagrams, technical know-how, manufacturing information and know-how, techniques, technical data packages, manufacturing data packages and trade secrets, or any other similar information useful for the production of a product or the provision of a service.

- b. IP will remain the exclusive property of the originating Participant, its country's Government or its contractor(s).
- c. Compatible with the provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes, IP disclosed or exchanged in confidence pursuant to this Arrangement will be clearly labelled by the originating Participant with a Restrictive Legend that sets forth that the information is proprietary, the nature of any confidence, any limitations on its use or disclosure, including the stated use to which the IP can be put, and will identify the originating Participant. In the case of IP which by its character cannot be labelled with such a Restrictive Legend, the recipient Participant will provide to the originating Participant identification of such IP received, accompanied by a statement acknowledging the same information that would have been included in the Restrictive Legend to the satisfaction of the originating Participant.
- d. IP which is exchanged or disclosed in confidence between the Participants and is marked in accordance with the Restrictive Legend provisions of this Arrangement, will not be disclosed or transferred to third parties or used for any manufacturing purpose or provision of service without the prior written consent of the originating Participant.
- e. Neither Participant will be accountable to the other Participant for alleged misuse of IP that is not marked or identified in accordance with the provisions of paragraph 6c.
- f. Any alleged misuse of IP exchanged under the provision of this Arrangement will be the subject of consultation between the Participants and will be provided for on an urgent basis. The object of such consultation will be to determine the facts and consider any appropriate resolutions to the problems

including any recommendations regarding appropriate compensation to any injured owners. Either Participant may elect at any time to have the alleged misuse considered in accordance with the provisions of the NATO Agreement on the Communication of Technical Information for Defence Purposes. Nothing in this paragraph is to be interpreted as altering any right or appeal otherwise available to an alleged injured owner.

- g. Each Participant commits itself to afford to information provided to it in confidence the full measure of legal protection available. Information provided in confidence must be so marked. In the event that it becomes probable that such information may have to be disclosed to a third party or to any judicial body, immediate notification will be given to the originating Participant and the originating Participant will be kept informed of developments relating to such disclosures.

7. RESOLUTION OF DISAGREEMENTS

Both Participants agree that any dispute over the terms or application of this Arrangement will be resolved by mutual consultation and will not be referred to a third party for adjudication.

8. TERMINATION AND AMENDMENT

- a. This Arrangement may be terminated by either Participant upon the provision of written notice 60 days in advance of the proposed termination date. This Arrangement may be amended upon the written consent of both Participants. Termination and amendment of annexes to this Arrangement shall be in accordance with the terms of each specific annex.
- b. Upon termination of this Arrangement or an annex hereto, information previously exchanged pursuant to the Arrangement will remain subject to the security provisions of paragraph 5 and the IP provisions of paragraph 6. The two Participants agree that in connection with the termination of an annex, they shall consult beforehand on related matters, including the future use which may be made by a Participant of information furnished to it by the other Participant.

9. ENTRY INTO FORCE

This Arrangement shall enter into force on the date of later signature.

DONE IN DUPLICATE

FOR THE DEPARTMENT OF

NATIONAL DEFENCE OF CANADA



J.R. Killick
Assistant Deputy Minister
(Materiel)
Department of National Defence

Date 10 April 1984

Brussels, Belgium

FOR THE DEPARTMENT OF DEFENSE

OF THE UNITED STATES



Richard D. DeLauer
Under Secretary of Defense
for Research and Engineering

Date 10 April 1984

Brussels, Belgium